



General Assembly

February Session, 2010

Raised Bill No. 206

LCO No. 945

00945_____ENV

Referred to Committee on Environment

Introduced by:
(ENV)

***AN ACT CONCERNING LOCAL LAND USE AGENCIES AND THE
SITING OF TELECOMMUNICATION TOWERS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 16-50x of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2010*):

3 (a) Notwithstanding any other provision of the general statutes,
4 except as provided in section 16-243, the council shall have exclusive
5 jurisdiction over the location and type of facilities and over the location
6 and type of modifications of facilities subject to the provisions of
7 subsection (d) of this section. When evaluating an application for a
8 telecommunication tower within a particular municipality, the council
9 shall consider any location preferences or criteria (1) provided to the
10 council pursuant to section 16-50gg, or (2) that may exist in the zoning
11 regulations of said municipality as of the submission date of the
12 application to the council. In ruling on applications for certificates or
13 petitions for a declaratory ruling for facilities and on requests for
14 shared use of facilities, the council shall give such consideration to
15 other state laws and municipal regulations as it shall deem
16 appropriate. Whenever the council certifies a facility pursuant to this

17 chapter, such certification shall satisfy and be in lieu of all
18 certifications, approvals and other requirements of state and municipal
19 agencies in regard to any questions of public need, convenience and
20 necessity for such facility.

21 (b) Whenever the council has certified a facility pursuant to this
22 chapter, any person joining in the application for such certification
23 shall be empowered to exercise its powers of eminent domain, granted
24 by the general statutes or any special act, to acquire property for such
25 facility for the benefit of all persons receiving such certificates.

26 (c) Whenever the council has certified a facility pursuant to this
27 chapter and the applicant for such certificate thereafter initiates
28 condemnation proceedings to acquire property for such facility, and it
29 shall appear to the court or judge before whom such proceedings are
30 pending that the public interest will be prejudiced by delay, said court
31 or judge may direct that said applicant be permitted to enter
32 immediately upon the property to be taken and devote it temporarily
33 to the public use specified in the application instituting such
34 proceeding upon the deposit with said court of a sum to be fixed by
35 said court or judge, upon notice to the parties of not less than ten days,
36 and such sum when fixed and paid shall be applied to the payment of
37 any assessment of damages which may be made, with interest thereon
38 from the date of such entry upon said property, and the remainder, if
39 any, returned to said applicant. If such application is dismissed, no
40 assessment of damages is made, or the proceedings are abandoned by
41 said applicant, said court or judge shall direct that the money so
42 deposited, so far as it may be necessary, shall be applied to the
43 payment of any damages that the owner of said property or other
44 parties in interest may have sustained by such entry upon and use of
45 such property, including reasonable attorneys', engineers' and
46 appraisers' fees and other reasonable expenses incurred by such owner
47 or other parties in interest in connection with such proceedings, and
48 the costs and expenses of such proceedings. Such damages shall be
49 ascertained by said court or judge or a committee to be appointed for

50 that purpose, and if the sum so deposited shall be insufficient to pay
 51 such damages and all costs and expenses so assessed, judgment shall
 52 be entered against said applicant for the deficiency to be enforced and
 53 collected in the same manner as a judgment in the Superior Court, and
 54 the possession of such property shall be restored to the owner or
 55 owners thereof.

56 (d) Any town, city or borough zoning commission and inland
 57 wetland agency may regulate and restrict the proposed location of a
 58 facility, as defined in subdivisions (3), [and] (4) and (6) of subsection
 59 (a) of section 16-50i. Such local bodies may make all orders necessary
 60 to the exercise of such power to regulate and restrict, which orders
 61 shall be in writing and recorded in the records of their respective
 62 communities, and written notice of any order shall be given to each
 63 party affected thereby. Such a local body shall make any such order (1)
 64 not more than sixty-five days after an application has been filed with
 65 the council for the siting of a facility described in subdivision (3) of
 66 subsection (a) of section 16-50i, [or] (2) not more than thirty days after
 67 an application has been filed with the council for the siting of a facility
 68 described in subdivision (4) of subsection (a) of section 16-50i, or (3)
 69 not more than sixty days after an application has been filed with the
 70 council for the siting of a facility described in subdivision (6) of
 71 subsection (a) of section 16-50i. Each such order shall be subject to the
 72 right of appeal within thirty days after the giving of such notice by any
 73 municipality required to be served with a copy of the application
 74 under subdivision (1) of subsection (b) of section 16-50l or by any party
 75 aggrieved to the council, which shall have jurisdiction, in the course of
 76 any proceeding on an application for a certificate or otherwise, to
 77 affirm, modify or revoke such order or make any order in substitution
 78 thereof by a vote of six members of the council.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>October 1, 2010</i>	16-50x
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Statement of Purpose:

To provide local land use agencies with the authority to regulate the siting of telecommunication towers.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]